



Robert Greene Sterne
Edward J. Kessler
Jorge A. Goldstein
David K.S. Comwell
Robert W. Esmond
Tracy-Gen G. Durkin
Michele A. Cimbalia
Michael B. Ray
Robert E. Sokohl
Eric K. Steffe
Michael Q. Lee
Steven R. Ludwig
John M. Covert
Linda E. Alcorn
Robert C. Millonig
Donald J. Featherstone
Timothy J. Shea, Jr
Lawrence B. Bugaiksy
Michael V. Messinger
Judith U. Kim

Patrick E. Garrett
Jeffrey T. Helvey
Heidi L. Kraus
Eldora L. Ellison
Thomas C. Fiala
Albert L. Ferro*
Donald R. Banowitz
Peter A. Jackman
Teresa U. Medler
Jeffrey S. Weaver
Kendrick P. Patterson
Vincent L. Capuano
Brian J. Del Buono
Virgil Lee Beaston
Theodore A. Wood
Elizabeth J. Haanes
Joseph S. Ostroff
Frank R. Cottingham
Christine M. Lhulier
Rae Lynn P. Guest

George S. Bardmessner
Daniel A. Klein
Jason D. Eisenberg
Michael D. Specht
Andrea J. Kamage
Tracy L. Muller
Jon E. Wright
LuAnne M. DeSantis
Aric W. Ledford
Helena C. Carlson
Cynthia M. Bouchez
Timothy A. Doyle*
Gaby L. Longsworth
Lori A. Gordon
Nicole D. Dretar
Ted J. Ebersole
Jyoti C. Iyer
Laura A. Vogel

Michael J. Mancuso
Bryan S. Wade
Aaron L. Schwartz
Michael G. Penn*
Shannon A. Carroll*
Wesley W. Jones*
Matthew E. Kelley*
Nicole R. Kramer*

Michelle K. Holoubek
Simon J. Elliott
Julie A. Heider
Mita Mukherjee
Scott M. Woodhouse
Christopher J. Walsh
Liliana Di Nola-Baron
Peter A. Socarras
Jeffrey Mills

Registered Patent Agents
Karen R. Markowicz
Nancy J. Leith
Matthew J. Dowd
Katrina Fujian Pei Quach
Bryan L. Skelton
Robert A. Schwartzman
Teresa A. Colella
Jeffrey S. Lundgren
Victoria S. Rutherford

Of Counsel
Kenneth C. Bass III
Evan R. Smith
Marvin C. Guthrie
*Admitted only in Maryland
•Admitted only in Virginia
•Practice Limited to
Federal Agencies

May 9, 2005

WRITER'S DIRECT NUMBER:
(202) 772-8520

INTERNET ADDRESS:
TWOOD@SKGF.COM

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop: Amendment

Re: U.S. Utility Patent Application
Appl. No.: 10/823,626; Filed: April 14, 2004
For: **Method and System for Adaptive Modulation Scheduling**
Inventors: Alan GIN *et al.*
Our Ref: 1875.4090001

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Information Disclosure Statement;
2. A listing of the cited documents on Form PTO-1449 (*1 page*);
3. Copies of the cited documents (AO1-AR1); and
4. One (1) return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents
May 9, 2005
Page 2

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Theodore A. Wood
Attorney for Applicants
Registration No. 52,374

JTH/TAW:ddc
Enclosures

395844_I.DOC



UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Alan GIN *et al.*

Appl. No.: 10/823,626

Filed: April 14, 2004

Confirmation No.: 4639

Art Unit: 2661

Examiner: To Be Assigned

Atty. Docket No.: 1875.4090001

For: **Method and System for Adaptive Modulation Scheduling**

Information Disclosure Statement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop: Amendment

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Applicants have listed publication dates on the attached Form PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent

application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

Applicants have checked the appropriate boxes below.

- 1. Statement under 37 C.F.R. 1.704(d). Each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in 37 C.F.R. § 1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 2. Filing under 37 C.F.R. § 1.97(b). This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits. No statement or fee is required.
- 3. Filing under 37 C.F.R. § 1.97(c). This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application.
 - a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than

three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$ _____ in payment of the fee under 37 C.F.R. § 1.17(p).

4. Filing under 37 C.F.R. § 1.97(d) This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee. Enclosed find our PTO-2038 Credit Card Payment Form in the amount of \$ _____ in payment of the fee under 37 C.F.R. § 1.17(p); in addition:

a. Statement under 37 C.F.R. § 1.97(e)(1). I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than

three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b. Statement under 37 C.F.R. § 1.97(e)(2). I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

5. Documents **AA1, AB1, AC1, AO1, AP1, and AQ1** were cited in a search report by the European Patent Office in a counterpart European application. A copy of the search report is cited as document **AR1** for the convenience of the Examiner.

6. A concise explanation of the relevance of the non-English language document(s) appears below in accordance with 37 C.F.R. § 1.98(a)(3).

7. Copies of documents **AO1, AP1, AQ1, and AR1** are submitted. However, in accordance with 37 C.F.R. § 1.98(a)(2), copies of the U.S. patents cited on the attached Form PTO-1449 are not submitted.

8. Copies of the documents were cited by or submitted to the Office in an IDS that complies with 37 C.F.R. § 1.98(a)-(c) in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Theodore A. Wood
Attorney for Applicants
Registration No. 52,374

Date: May 9, 2005

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

395012_1.DOC

FORM PTO-1449 INFORMATION DISCLOSURE STATEMENT			ATTY. DOCKET NO. 1875.409001		APPLICATION NO. 10/823,626		
			INVENTORS Alan GIN et al.		FILING DATE April 14, 2004		ART UNIT 2661
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL	DOC. REF.	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA1	2003/0058887 A1	03/2003	Dworkin <i>et al.</i>			
	AB1	2003/0061623 A1	03/2003	Denney <i>et al.</i>			
	AC1	2003/0067877 A1	04/2003	Sivakumar <i>et al.</i>			
	AD1						
	AE1						
	AF1						
	AG1						
	AH1						
	AI1						
FOREIGN PATENT DOCUMENTS							
EXAMINER INITIAL	DOC. REF.	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AJ1						Yes No
	AK1						Yes No
	AL1						Yes No
	AM1						Yes No
	AN1						Yes No
OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)							
EXAMINER INITIAL	DOC. REF.	CITATION					
	AO1	Fellows, D. and Jones, D., "DOCSIS™ Cable Modem Technology," <i>IEEE Communications Magazine</i> , IEEE, pp. 202-209 (March 2001).					
	AP1	<i>Intelligent Multiplexing Solutions for Video-On-Demand Systems</i> , Cisco Systems, Inc. White Paper, 7 pages (Copyright 1992-2001).					
	AQ1	Park, W. and Wang, W., "QoS-sensitive transport of real-time MPEG video using adaptive redundancy control," <i>Computer Communications</i> 24, Elsevier Science B.V., pp. 78-92 (2001).					
	AR1	European Search Report, dated March 17, 2005, for European Patent Application Number 04009298.3, 3 pages.					
EXAMINER					DATE CONSIDERED		
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.							